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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

EYASU WOLDE,

Defendant and Appellant.

F044035

(Super. Ct. No. F02905055-0)

**OPINION**

**THE COURT\***

APPEAL from a judgment of the Superior Court of Fresno County. Wayne Ellison, Judge.

William Davies, under appointment by the Court of Appeal, for Defendant and Appellant.

Bill Lockyer, Attorney General, Robert R. Anderson, Chief Assistant Attorney General, Mary Jo Graves, Assistant Attorney General, Carlos A. Martinez and Mathew Chan, Deputy Attorneys General, for Plaintiff and Respondent.

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Appellant, Eyasu Wolde, pled guilty to one count of driving with a blood alcohol content of .08 percent or greater causing injury (Veh. Code, 23153, subd. (b)) and

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\* Before Dibiaso, Acting P.J., Buckley, J., and Dawson, J.

admitted two great bodily injury enhancements (Pen. Code, § 12022.7, subdivision (a)).<sup>1</sup> On appeal, Wolde contends the court erred in imposing two great bodily injury enhancements. We will affirm.

### **FACTS**

On April 5, 2002, at approximately 2:53 a.m., Wolde drove his car in the lane for oncoming traffic and struck another car head on, seriously injuring the two occupants of the other car (including one who eventually died from his injuries). Wolde's blood alcohol content was later measured at .21 per cent.

On March 4, 2003, the district attorney filed an information charging Wolde with driving with a blood alcohol content of .08 per cent or greater causing injury (count 1), driving under the influence of drugs or alcohol causing injury (count 2), and vehicular manslaughter without gross negligence (count 3). Each count alleged that Wolde proximately caused death or bodily injury to more than one victim within the meaning of section 23558. Additionally, counts 1 and 2 each charged Wolde with two great bodily injury enhancements pursuant to section 12022.7, subdivision (a).

On May 29, 2003, Wolde entered a plea bargain which provided that, in exchange for pleading guilty to count 1 and admitting the two enhancements pursuant to section 12022.7, subdivision (a), he would receive a maximum term of eight years and the remaining counts and enhancements would be dismissed.

On August 11, 2003, the court sentenced Wolde to an aggregate term of seven years four months as follows: the lower term of 16 months on his driving under the influence conviction, and two 3-year enhancements pursuant to section 12022.7.

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<sup>1</sup> All further statutory references are to the Penal Code.

## DISCUSSION

Section 12022.7, subdivision (a) provides:

“Any person who personally inflicts great bodily injury on any person other than an accomplice in the commission of a felony or attempted felony shall be punished by an additional and consecutive term in state prison for three years.”

When Wolde committed the underlying offense, section 1170.1 subdivision (g) (hereafter subdivision (g)) provided “[w]hen two or more enhancements may be imposed for the infliction of great bodily injury in the commission of a single offense, only the greatest of those enhancements shall be imposed for that offense. . . .”

Wolde contends that the version of subdivision (g) in effect when he committed the underlying offense in this matter permitted the imposition of only one enhancement for infliction of serious bodily injury.

*People v. Arndt* (1999) 76 Cal.App.4th 387, 398-399, rejected the identical contention raised by Wolde. In *Arndt*, the defendant was convicted of driving under the influence of drugs causing injury, and three enhancements pursuant to section 12022.7 were found true based on the injuries caused to three different victims. On appeal, the *Arndt* court found that imposition of three section 12022.7 enhancements, did not contravene subdivision (g) because the three enhancements were all imposed under the same code section and because “subdivision (g) must be construed in light of section 12022.7” which “expressly authorizes imposing an enhancement where a defendant ‘inflicts great bodily injury on any person’ when committing or attempting to commit a felony.” (*Id.* at p. 399.)

Wolde contends that *Arndt* was wrongly decided because its holding is contrary to the plain intent of the Legislature in enacting Penal code 1170.1, subdivision (g). We disagree.

In 2002, subdivision (g) was amended to add the language italicized below:

“When two or more enhancements may be imposed for the infliction of great bodily injury *on the same victim*, only the greatest of those enhancements shall be imposed for that offense. . . .” (§ 1170.1, subd. (g), as amended by Stats. 2002, ch. 126 § 1, emphasis added.)

Further, in enacting this amendment the Legislature stated:

“The amendment to subdivision (g) of section 1170.1 of the Penal Code, in section 1 of this act, is intended to clarify the application of that subdivision and conform the language of that subdivision to the decision of the Court of Appeal in *People v. Arndt* (1999) 76 Cal.App.4th 387, 398-399.)” (§ 1170.1, subd. (g), Stats. 2002, ch. 126 § 9.)

It is clear from this clarification that the Legislature always intended that subdivision (g) prohibit only the imposition of more than one great bodily injury enhancement per victim who suffered such injury. Further, the court, here, imposed only one great bodily injury enhancement for each victim, each of whom suffered serious injury. Thus, in accord with *Arndt*, we reject Wolde’s contention that the court erred when it imposed two great bodily injury enhancements pursuant to section 12022.7.

#### **DISPOSITION**

The judgment is affirmed.